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August 4, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Salas:

The enclosed 3.5 diskette contains Comments filed by U S WEST today in CC 98-121. These Comments are in response to the 7/9/98 Public Notice, DA 98-1364, regarding BellSouth's re-filed 271 Application to provide in-region interLATA service in Louisiana. The 3.5 diskette is formatted in Word Perfect 5.1 for Windows in "read only" mode.

Should you have any questions regarding the diskette, please call me at the above number.

Sincerely,



Rebecca W. Ward

Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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AUG - 4 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Application by BellSouth Corporation,)
BellSouth Telecommunications, Inc., and) CC Docket No. 98-121
BellSouth Long Distance, Inc., for)
Provision of In-Region, InterLATA)
Services in Louisiana)

**COMMENTS OF U S WEST COMMUNICATIONS, INC.
ON SECOND APPLICATION BY BELL SOUTH
TO PROVIDE IN-REGION INTERLATA SERVICES IN LOUISIANA**

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SUMMARY

U S WEST Communications, Inc. supports BellSouth's position that it meets the requirements to proceed under Track A. Six wireline carriers and five PCS providers in Louisiana are qualifying Track A providers, because

(1) they have an agreement that has been approved under Section 252 of the 1996 Act specifying the terms and conditions under which BellSouth is providing access and interconnection to its network facilities; (2) they are competing providers of telephone exchange service; (3) they serve residential and business subscribers; and (4) they offer service exclusively or predominantly over their own telephone exchange facilities.

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Washington, DC 20554

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COMMENTS OF U S WEST COMMUNICATIONS, INC.
ON SECOND APPLICATION BY BELL SOUTH
TO PROVIDE IN-REGION INTERLATA SERVICES IN LOUISIANA

U S WEST Communications, Inc. ("U S WEST") hereby submits Comments in support of BellSouth's Application to provide interLATA services in Louisiana.¹

U S WEST limits the scope of its comments to whether BellSouth satisfies the requirements under Section 271(c)(1)(A) of the Telecommunications Act of 1996 ("1996 Act") to proceed under Track A.

I. INTRODUCTION

The 1996 Act has two reciprocal and interdependent goals: Regional Bell Operating Company ("RBOC") entry into the interLATA market in exchange for opening the local market to competition.

¹ Brief in Support of Second Application by BellSouth for Provision of In-Region, InterLATA Services in Louisiana, filed July 9, 1998 ("BellSouth Brief"). Public Notice, Comments Requested on Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in Louisiana, DA 98-1363, rel. July 9, 1998; erratum, rel. July 30, 1998. Public Notice extending comment date, DA 98-1480, rel. July 23, 1998.

Congress provided new entrants with choices for entering the local market. They have the ability to select the geographic and markets they wish to enter, the customer segments they wish to serve, and the services they wish to offer. They have the ability to construct and self-provision facilities, purchase or lease non-Bell Operating Company ("BOC") facilities, purchase BOC unbundled network elements, resell BOC finished services, or utilize any combination of these.

BOCs who wish to enter the in-region interLATA market also have choices. Congress designed the 1996 Act to allow them to use approved agreements with qualifying competitive providers (Track A)² or a Statement of generally available terms and conditions ("SGAT") (Track B)³ as the basis for meeting the checklist requirements to obtain authorization to provide in-region interLATA services. There is no "one size fits all."

This proceeding is about some of the business choices which new entrants have made in Louisiana.

II. BELLSOUTH SATISFIES THE REQUIREMENTS UNDER SECTION 271(c)(1)(A) AND IS ENTITLED TO PROCEED UNDER TRACK A

To support a Track A Application, an unaffiliated carrier must: (1) have an agreement that has been approved under Section 252 of the 1996 Act specifying the terms and conditions under which the BOC is providing access and interconnection

² 47 U.S.C. § 271(c)(1)(A).

³ 47 U.S.C. § 271(c)(1)(B).

to its network facilities; (2) be a 'competing provider of telephone exchange service (as defined in § 153(47)(A)), but excluding exchange access;' (3) serve residential and business subscribers; and (4) offer service exclusively or predominantly over its own telephone exchange facilities.⁴

A. Wireline Carriers Meet The Track A Requirements in Louisiana

Six facilities-based wireline carriers in Louisiana meet these requirements. BellSouth says: "According to the best information available to BellSouth, the six facilities-based wireline carriers in Louisiana together serve 4282 local lines, including a small number of residential lines, over their own networks. These carriers serve approximately 16,000 business lines and more than 250 residential lines in total."⁵ "BellSouth believes it is eligible for interLATA relief under Track A on the strength of these carriers alone."⁶

U S WEST agrees with BellSouth that "where a [competitive local exchange carrier] CLEC or combination of CLECs provides service to both residential and business subscribers, Track A does not require that both classes of subscribers be

⁴ 47 U.S.C. § 271(c)(1)(A).

⁵ BellSouth Brief at 6 (citation omitted). The six carriers are: American Communications Services, Inc.; American MetroComm; Entergy Hyperion Telecommunications; KMC Telecom, Inc.; Shell Offshore Services Company; AT&T. Id. at 4-6.

⁶ Id. at 6.

served on a facilities basis.”⁷ The Department of Justice (“DOJ”) recognized this important feature of Section 271(c)(1)(A):

The statute requires that both business and residential subscribers be served by a competing provider, and that such provider must be exclusively or predominantly facilities-based. It does not, however, require that each class of customers (i.e., business and residential) must be served over a facilities-based competitor’s own facilities. To the contrary, Congress expressly provided that the competitor may be providing services “predominantly” over its own facilities “in combination with the resale of” BOC services. 47 U.S.C. § 271(c)(1)(A). Thus, it does not matter whether the competitor reaches one class of customers -- e.g., residential -- only through resale, provided that the competitor’s local exchange services as a whole are provided “predominantly” over its own facilities.⁸

The DOJ has also recognized that the choice made by a facilities-based new entrant to provide service to only one class of customers , i.e., business customers, but not to residential customers does not deprive the BOC of its ability to proceed under Track A:

[T]here is no reason to delay BOC entry into interLATA markets simply because competitors that have a demonstrated ability to operate as facilities-based competitors, and that are in fact providing service predominantly over their own facilities, find it most advantageous to serve one class of customers on a resale basis. Imposing this requirement would tip unnecessarily the statute’s balance between facilitating local entry and providing for additional competition in interLATA services by adding an unnecessary prerequisite to Track A that might foreclose entry in certain cases for no beneficial competitive purpose.⁹

⁷ Id. at 7 (emphasis in original).

⁸ Addendum to DOJ Oklahoma Evaluation at 3, CC Docket No. 97-121 (May 21, 1997).

⁹ Id. at 3-4.

As BellSouth points out, the DOJ's analysis describes the state of local competition in Louisiana:

[S]ix wireline carriers in Louisiana have facilities in place that readily could be used to serve residential customers. These carriers have simply decided it is more profitable to focus most of their attention on business customers. At the same time, resellers such as Louisiana Unwired and others have chosen to serve principally or exclusively residential customers. Requiring BellSouth to wait until facilities-based carriers alter their business plans and join pure resellers as strong participants in the residential market "would tip unnecessarily the statute's balance between facilitating local entry and providing for additional competition in interLATA services by adding an unnecessary prerequisite to Track A that might foreclose entry in certain cases for no beneficial competitive purpose."¹⁰

Although the six Track A wireline carriers in Louisiana upon whom BellSouth relies serve only about 16,000 business lines and 250 residential lines in total, U S WEST agrees with BellSouth that "the total number of customers served by Track A CLECs in Louisiana (or any other CLECs in the State) is not relevant to determining BellSouth's compliance with Track A. As the Chairman of the Commission has recently stated, 'it is my view that the goal of the 1996 Act is not to ensure that competitors have taken a certain amount of business from the Bell Operating Company, but rather to bring the benefits of competition to consumers.'"¹¹

¹⁰ BellSouth Brief at 8.

¹¹ Id. at 9. In the Michigan Order, the Commission said that a competitor need not meet "any specified level of geographic penetration" or have any particular market share, but must "be said to be an actual commercial alternative to the BOC" and "actually be in the market and operational." Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-137,

B. PCS Providers Meet The Track A Requirements in Louisiana

Independent of the wireline carriers, BellSouth says that it also meets the Track A requirements based on the existence of five PCS carriers¹² in Louisiana who provide telephone exchange service to approximately 35,000 subscribers.¹³ Although the Commission expressed the view in the Louisiana Order that PCS providers offered a complimentary, rather than a competitive, service to wireline services, BellSouth cites two dramatic developments which alter that view. First, BellSouth says:

[T]he FCC's Wireless Bureau has noted that "wireless and wireline technologies are increasingly competing for a single pool of minutes-of-use" and that "wireless providers can compete for local access by creating pricing plans that encourage their customers to use mobile phones as substitutes for wireline phones."¹⁴

Second, BellSouth describes how one of the major PCS providers is positioning and pricing its service with customers:

In Louisiana, this transition from wireline to wireless has already occurred for many thousands of consumers. This is not merely the opinion of BellSouth. AT&T has recently trumpeted its PCS service as a way to "make your wireless phone your only phone."¹⁵

Memorandum Opinion and Order, FCC No. 97-298, rel. Aug. 19, 1997 ("Michigan Order") ¶ 75.

¹² The five PCS providers are: AT&T, Sprint Spectrum, PrimeCo, MereTel, and PowerTel. BellSouth Brief at 9-10.

¹³ Id.

¹⁴ Id. at 12.

¹⁵ Id.

* * *

The recent pricing of AT&T Wireless can only accelerate this process. It has announced a new PCS pricing structure, its Digital One Rate Plan, which eliminates roaming charges by offering flat, per-minute charges of between approximately 11 and 15 cents per minute for all local and long distance PCS calling. In announcing the plan, AT&T Chairman Michael Armstrong stated that one of AT&T's target groups for this service is those customers who see PCS service as a replacement for wireline service. According to Mr. Armstrong, "[p]retty soon, someone's going to wonder why that [wireline] phone is sitting there."¹⁶

U S WEST agrees with BellSouth that "in Louisiana, PCS is a viable alternative to wireline local service, and that through this service alone, BellSouth satisfies Track A."¹⁷

III. CONCLUSION

For the reasons discussed herein, U S WEST agrees that wireline providers as well as PCS providers satisfy the requirements in Section 271(c)(1)(A) to be

¹⁶ Id. at 14.

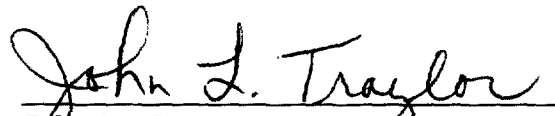
¹⁷ Id. at 15.

regarded as Track A providers in Louisiana and that BellSouth may base its
Application to provide interLATA services on Track A.

Respectfully submitted,

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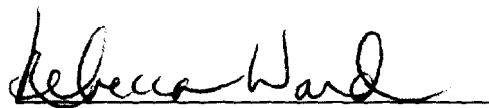
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Of Counsel,
Dan L. Poole

August 4, 1998

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 4th day of August, 1998, I have caused a copy of the foregoing **COMMENTS OF U S WEST COMMUNICATIONS, INC. ON SECOND APPLICATION BY BELLSOUTH TO PROVIDE IN-REGION INTERLATA SERVICES IN LOUISIANA*** to be served, via United States Mail, ** postage pre-paid, upon the persons listed on the attached service list.


Rebecca Ward

*3.5 Inch computer diskette served on the Office of the Secretary

**Served via hand-delivery

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